

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s): Wagner et al.

Examiner: P. Gambel

Serial No.: 08/948,393

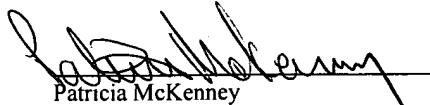
Art Unit: 1644

Filing Date: November 8, 1999

For: METHOD FOR TREATING AND PREVENTING ATHEROSCLEROSIS
WITH PSGL-1

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Patricia McKenney

Commissioner for Patents
P.O. 1450
Alexandria, VA. 22313-1450

DECLARATION UNDER RULE 132

Sir:

I, Denisa D. Wagner, declare and state as follows:

1. I am a Professor in the Department of Pathology at Harvard Medical School, and a Senior Investigator at The CBR Institute for Biomedical Research, Inc., Boston, Massachusetts. My Curriculum Vitae is attached hereto as an Exhibit. I am also an inventor of the above-identified patent application. I consider myself to be an expert in the field of cardiovascular medicine and pathology, as reflected in my Curriculum Vitae, and I am well aware of the knowledge level of others skilled in this art.

2. I have reviewed the outstanding Office Action of October 21, 2004, in the above-identified patent application. I am also familiar with the claims of this application, as presently amended, which are directed to methods for treating or inhibiting atherosclerosis by decreasing the formation or growth of plaque on arterial walls. This is accomplished by administering PSGL-1, or selected variants thereof, to a subject over a prolonged period of time, i.e. months or years.

3. I am familiar with the references cited by the Examiner in the outstanding Office Action. In particular, I have reviewed the Cummings et al. reference (U.S. Patent No. 5,464,778), which I understand to be the primary reference cited in the Office Action.

4. The Cummings et al. reference is generally directed to inflammatory thrombotic conditions such as ischemia and reperfusion. In col. 19, line 64 to col. 20, line 5, the Cummings et al. reference makes the following disclosure relating to atherosclerosis and platelet-leukocyte interactions:

“Platelet-leukocyte interactions are believed to be important in atherosclerosis. Platelets might have a role in recruitment of monocytes into atherosclerotic plaques; the accumulation of monocytes is known to be one of the earliest detectable events during atherogenesis. Rupture of a fully developed plaque may not only lead to platelet deposition and activation and the promotion of thrombus formation, but also the early recruitment of neutrophils to an area of ischemia.”

5. My interpretation of the above cited passage is as follows. Cummings et al. speculate that platelet-leukocyte interactions are important in atherosclerosis. In fact, it is now well established that the key in atherosclerotic lesion development is the direct binding of monocytes to endothelial cells, and the reference does not discuss this. Cummings et al. discusses events following plaque rupture. Such events include thrombus formation leading to ischemic injury causing neutrophil recruitment. This event occurs long after plaque formation which is subject of the present application. The claims of our application specify that the P-selectin is on endothelial cells. Endothelial cells coat the arterial wall, and are not part of the

circulatory system as are the platelets. The plaque rupture, thrombotic events and neutrophil recruitment to the ischemic area discussed in the reference are not part of the present application.

6. I believe that the present invention can be distinguished from the Cummings et al. reference in the following respects. The present invention is directed to the treatment of atherosclerosis by decreasing the formation or growth of plaque on arterial walls. Atherosclerosis is a chronic condition caused by many factors, primarily by excessive plasma cholesterol levels, and results in the deposition of lesions and plaque on arterial walls. The treatment of atherosclerosis requires the long term administration of a medication to a subject in order to result in a meaningful improvement of the condition. This contrast with the treatment of a thrombosis, as disclosed in the Cummings et al. reference, which requires the commencement of an immediate treatment regime in order to prevent the reoccurrence of a thrombotic attack.

7. I also believe that the ability to design a mimetic of PSGL-1 having similar inhibitory characteristics, i.e. the ability to inhibit P-selectin, would be within the skill of a person in the art. Such a mimetic would optimally be designed based on a similarity of charge and shape as stated in the present claims.

8. Based on my knowledge, training and experience, it is my opinion that the references cited in the outstanding Office Action would not teach or suggest the method for treating atherosclerosis as stated in the present claims of the above-identified patent application.

I further declare that statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing thereon.

Date: 2/18/05



Denisa D. Wagner, Ph.D.

CURRICULUM VITAE

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PLACE OF BIRTH: Prague, Czechoslovakia; U.S. citizen

EDUCATION: Universite de Geneve, Switzerland - Biochemistry
Diploma of Biochemistry, 1975, with distinction

Massachusetts Institute of Technology, Cambridge, MA
Biology - Ph.D., 1980

Harvard University, Cambridge, MA
M.A. (honorary), 1997

FACULTY POSITIONS:

Professor of Pathology, Harvard Medical School, Boston, MA.
1997-present.

Senior Investigator, The CBR Institute for Biomedical Research (formerly known as The Center for Blood Research), Boston, MA.
1994-present.

Associate Professor of Pathology, Harvard Medical School, Boston, MA.
1994-1997.

Associate Professor of Anatomy and Cellular Biology, Tufts University School of Medicine, Boston, MA. 1989-1994.

Associate Professor of Medicine, Tufts University School of Medicine and
Member, Special and Scientific Staff, New England Medical Center,
Boston, MA. 1987-1994.

Assistant Professor of Biophysics, University of Rochester School of Medicine and Dentistry, Rochester, New York. 1985-1987.

Assistant Professor of Medicine, University of Rochester School of Medicine and Dentistry, Rochester, New York. 1982-1987.

Senior Instructor in Medicine, University of Rochester School of Medicine and Dentistry, Rochester, New York. 1981-1982.

AWARDS:

Established Investigator Award, American Heart Association, Biosynthesis of von Willebrand protein by endothelial cells. 1986-1991.

XIth ISTH Congress award in recognition of an outstanding communication, 1987.

Gwendolyn J. Stewart Memorial Award to honor women in the biomedical sciences, 1998.

Special recognition award from the Council on Arteriosclerosis, Thrombosis and Vascular Biology, AHA, 1998

MERIT award, National Heart, Lung and Blood Institute, NIH, 1998-2008.

Sol Sherry Lecture, American Heart Association, 2004.

MAJOR COMMITTEE ASSIGNMENTS:

University:

1991-1994	Member of the Graduate Advisory Committee of the Graduate Program in Cell, Molecular and Developmental Biology, Sackler School of Graduate Biomedical Sciences, Tufts University
1992-1994	Sackler School Committee on Programs and Faculty, Tufts University
1992-1994	Graduate Admission Committee of the Graduate Program in Cell, Molecular and Developmental Biology, Sackler School of Graduate Biomedical Sciences, Tufts University
1995-Present	Member of the Graduate Program in Biological and Biomedical Sciences, Harvard Medical School
1998-Present	Member, Committee for Immunology, Program in Immunology, Harvard Medical School
1999-2002	Member of the Faculty Fellowship Committee, Harvard Medical School
2001-2004	Member, Standing Committee on Promotions, Reappointments, and Appointments, Harvard Medical School
2003-Present	Elected Member, Harvard Medical School Faculty Council

National and Regional:

Served on many review committees and panels for the National Institutes of Health, American Heart Association, Juvenile Diabetes Foundation and American Red Cross.

Currently permanent member, NIH, NHLBI Thrombosis and Hemostasis Study Section (2002-2006)

MEMBERSHIPS, OFFICES, AND COMMITTEE ASSIGNMENTS IN PROFESSIONAL SOCIETIES:

1980-Present	American Society for Cell Biology
1982-Present	American Society of Hematology
1982-Present	International Society of Thrombosis and Haemostasis
1983-1997	Council on Thrombosis, American Heart Association
1985-Present	International Society of Thrombosis and Haemostasis, subcommittee on von Willebrand factor
1991-1996	American Heart Association, Vascular Wall Biology Study Committee

1992-Present	American Heart Association, Council on Thrombosis Executive Committee
1993-1995	American Heart Association, Council on Thrombosis Long-Range Planning Committee
1994-1996	American Heart Association, Council on Thrombosis Membership Committee (Chairman)
1994-Present	American Association for the Advancement of Science
1994-Present	North American Vascular Biology Organization (Founding Member)
1995-1998	American Society of Hematology, Scientific Subcommittee on Thrombosis & Vascular Biology
1997-Present	North American Vascular Biology Organization (Councilor)
1997-Present	Council on Arteriosclerosis, Thrombosis and Vascular Biology, American Heart Association (Fellow)
1998	Council of the Gordon Research Conferences (Member)
1998-Present	The Molecular Medicine Society (Member)
1999-Present	Boston Obesity Nutrition Research Center (Member)
2001-Present	National Hemophilia Foundation (Member)
2001-2005	American Society of Hematology, Scientific Committee on Thrombosis & Vascular Biology (Member)
2002-Present	Harvard Center for Neurodegeneration & Repair (Member)
2004-2010	Council of the International Society on Thrombosis and Haemostasis (Member)
2004-2005	Chair, Scientific Committee on Thrombosis and Vascular Biology, American Society of Hematology

EDITORIAL BOARDS:

1993-2004	Molecular Biology of the Cell
1994-1999	Journal of Clinical Investigation
1998-Present	Molecular Medicine
2003-2008	Blood

PUBLICATIONS

DENISA D. WAGNER, Ph.D.

1. Hynes RO, Ali IU, Destree AT, Mautner V, Perkins ME, Senger DR, **Wagner DD** and Smith KK. A large glycoprotein lost from the surfaces of transformed cells. *Ann NY Acad Sci* 312:317-342, 1978.
2. **Wagner DD** and Hynes RO. Domain structure of fibronectin and its relation to function (disulfides and sulfhydryl groups). *J Biol Chem* 254:6746-6754, 1979.
3. Hynes RO, Destree AT, Perkins ME and **Wagner DD**. Cell surface fibronectin and oncogenic transformation. *J Supramolecular Str* 11:95-104, 1979.
4. **Wagner DD** and Hynes RO. Topological arrangement of the major structural features of fibronectin. *J Biol Chem* 255:4304-4312, 1980.
5. **Wagner DD**, Ivatt R, Destree AT and Hynes RO. Similarities and differences between fibronectins of normal and transformed hamster cells. *J Biol Chem* 256:11708-11715, 1981.
6. **Wagner DD** and Hynes RO. Fibronectin coated beads are endocytosed by cells and align with microfilament bundles. *Exp Cell Res* 140:373-381, 1982.
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10. **Wagner DD** and Marder VJ. Biosynthesis of von Willebrand protein by human endothelial cells: identification of a large precursor polypeptide chain. *J Biol Chem* 258:2065-2067, 1983.
11. **Wagner DD**, Urban-Pickering M and Marder VJ. von Willebrand protein binds to extracellular matrices independently of collagen. *Proc Natl Acad Sci USA* 81:471-475, 1984.
12. Sporn LA, Rubin P, Marder VJ and **Wagner DD**. Irradiation induces release of von Willebrand protein from endothelial cells in culture. *Blood* 64:567-570, 1984.
13. **Wagner DD** and Marder VJ. Biosynthesis of von Willebrand protein by human endothelial cells: processing steps and their intracellular localization. *J Cell Biol* 99:2123-2130, 1984.
14. Sporn LA, Chavin SI, Marder VJ and **Wagner DD**. Biosynthesis of von Willebrand protein by human megakaryocytes. *J Clin Invest* 76:1102-1106, 1985.
15. **Wagner DD**, Mayadas T, Urban-Pickering M, Lewis BH and Marder VJ. Inhibition of disulfide bonding of von Willebrand protein by monensin results in small, functionally defective multimers. *J Cell Biol* 101:112-120, 1985.

16. Fay PJ, Kawai Y, **Wagner DD**, Ginsberg D, Bonthron D, Ohlsson-Wilhelm BM, Chavin SI, Abraham GN, Handin RI, Orkin SH, Montgomery RR and Marder VJ. Propolypeptide of von Willebrand factor circulates in blood and is identical to von Willebrand antigen II. *Science* 232:995-998, 1986.
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18. **Wagner DD**, Mayadas T and Marder VJ. Initial glycosylation and acidic pH in the Golgi apparatus are required for multimerization of von Willebrand factor. *J Cell Biol* 102:1320-1324, 1986.
19. **Wagner DD**, Lawrence SO, Ohlsson-Wilhelm BM, Fay PJ and Marder VJ. Topology and order of formation of interchain disulfide bonds in von Willebrand factor. *Blood* 69:27-32, 1987.
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21. Sporn LA, Marder VJ and **Wagner DD**. von Willebrand factor released from Weibel-Palade bodies binds more avidly to extracellular matrix than that secreted constitutively. *Blood* 69:1531-1534, 1987.
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56. Stone JP and **Wagner DD**. P-selectin-deficient mice: A model to study inflammation and metastasis. In: Series: Topics in Molecular Medicine Vol 1. Siess W, Lorenz R and Weber PC. (Eds.). New York: Raven Press, pp. 105-116, 1995.
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63. Yamada S, Mayadas TN, Yuan F, **Wagner DD**, Hynes RO, Melder RJ and Jain RK. Rolling in P-selectin deficient mice is reduced but not eliminated in the dorsal skin. *Blood* 86:3487-3492, 1995.
64. Pinsky DJ, Naka Y, Liao H, Oz MC, **Wagner DD**, Mayadas TN, Johnson RC, Hynes RO, Heath M, Lawson CA and Stern DM. Hypoxia-induced exocytosis of endothelial cell Weibel-Palade bodies: A mechanism for rapid neutrophil recruitment following cardiac preservation. *J Clin Invest* 97:493-500, 1996.
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69. Frenette PS and **Wagner DD**. Adhesion Molecules - Part I. *New Engl J Med* 334:1526-1529, 1996.
70. Frenette PS and **Wagner DD**. Adhesion Molecules - Part II: Blood vessels and blood cells. *New Engl J Med* 335:43-45, 1996.
71. Hynes RO and **Wagner DD**. Genetic manipulation of vascular adhesion molecules in mice. *J Clin Invest* 98:2193-2195, 1996.
72. Johnson RC, Chapman SM, Dong ZM, Ordovas JM, Mayadas TN, Herz J, Hynes RO, Schaefer EJ and **Wagner DD**. Absence of P-selectin reduces fatty streak formation in mice. *J Clin Invest* 99:1037-1043, 1997.
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74. Frenette PS and **Wagner DD**. Insights into selectin function from knockout mice. *Thromb Haemost, State-of-the-Art Issue*, 78:60-64, 1997.
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90. Berger G, Hartwell DW and **Wagner DD**. P-selectin and platelet clearance. *Blood*: 92:4446-4452, 1998.
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